

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

ORIGINAL

In the Matter of the License of:)
)
MARYLIN L. EACKER,) Case No. SWO-P4B-03-02-91
License No. LSW-1427,)
) **STIPULATION AND**
Respondent.) **CONSENT ORDER**
)

SWO\Eacker\P3336lga

WHEREAS, information having been received by the Idaho State Board of Social Work Examiners (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Marilyn L. Eacker (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of social work in the State of Idaho in accordance with title 54, chapter 32, Idaho Code.

2. Respondent Marilyn L. Eacker is a licensee of the Idaho State Board of Social Work Examiners and holds License No. LSW-1427 to practice social work in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 32, Idaho Code.

3. On or about April 1, 2001, while employed as a social worker with the Idaho Department of Health and Welfare, Respondent was assigned to client C.P.'s case after C.P. tested positive for methamphetamine after giving birth.

4. In her June 20, 2003, interview with an investigator for the Bureau of Occupational Licenses, as well as in her June 23, 2003, letter to the investigator, Respondent admitted that, beginning in approximately September 2001, Respondent began to have inappropriate feelings for C.P. and thereafter engaged in a non-physical relationship with C.P. outside of the boundaries of the social worker/client relationship.

5. Respondent was removed from C.P.'s case on or about February 8, 2002. On February 28, 2002, and again on March 28, 2002, Respondent was ordered by her supervisor at Health and Welfare to stop all contact with C.P. Respondent refused and resigned from Health and Welfare on April 1, 2002. Respondent's relationship with C.P. ended approximately December 2002.

6. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of social work, specifically Idaho Code § 54-3211(6) and IDAPA 24.14.01.450.01.f, 24.14.01.450.01.g, 24.14.01.450.01.h, and 24.14.01.450.02.b. Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent's license to practice social work in the State of Idaho.

7. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against her license as set forth in Section C below.

B.

I, Marylin L. Eacker, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice social work in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights

accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of social work in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent shall pay to the Board an administrative fine in the amount of One Thousand and No/100 Dollars (\$1,000.00) within thirty (30) days of the entry of the Board's Order.

2. Respondent shall pay investigative costs and attorney fees in the amount of One Thousand Three Hundred and No/100 Dollars (\$1,300.00) within thirty (30) days of the entry of the Board's Order.

3. Respondent's license shall be placed on a probationary basis for a period of two (2) years from the date of entry of the Board's Order, one (1) year of which shall be supervised and one (1) year of which shall be unsupervised. The conditions of probation are as follows:

a. Both the supervisor and the site of the supervised practice must receive preapproval by the Board. Successful completion of the one-year program of supervised practice will be a prerequisite to reinstatement of Respondent's license without restriction.

b. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of social work in the State of Idaho.

c. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

d. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

e. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

f. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

4. Within six (6) months of the date of entry of the Board's Order, Respondent shall obtain a mental health evaluation from a licensed clinical social worker (LCSW) and will comply with all recommendations as a result of that evaluation, including participation in at least six (6) counseling sessions or as recommended by the LCSW. Any counseling participated in by Respondent as recommended by the LCSW shall be at Respondent's own expense, and a copy of this Stipulation shall be provided by Respondent to the LCSW prior to treatment. Upon completion of all recommended treatment, the LCSW shall provide to the Board an opinion as to Respondent's prognosis and ability to function as a professional social worker in public or private practice, and such assessment shall be considered by the Board in any request by Respondent for termination of probation.

5. Within one (1) year of the date of entry of the Board's Order, Respondent shall satisfactorily complete a three (3) semester hour (or the equivalent quarter hours) class in ethics which includes dual relationships and boundaries. Respondent must receive prior approval by the Board as to both the institution and coursework for which

she is seeking credit. After completion of the coursework, Respondent will provide certified transcripts to the Board.

6. If, during the two-year probationary period, Respondent appears before the Board because of conduct which, if proven, is cause for disciplinary action against her license, Respondent's license shall then and thereby be revoked.

7. At the conclusion of the two-year probationary period, Respondent may request from the Board termination of the conditions of probation. Any request for termination of probation must be accompanied by written proof of compliance with the terms of this Stipulation.

8. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

9. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-3211. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.


c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, Idaho Code §§ 9-337-50.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

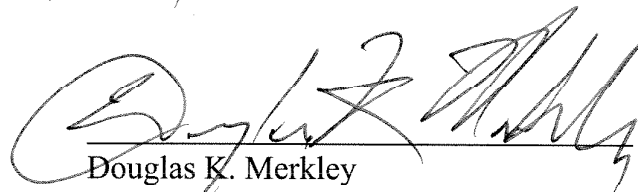
I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 31 day of December, 2003.


Marilyn L. Eacker
Respondent

I concur in this stipulation and order.

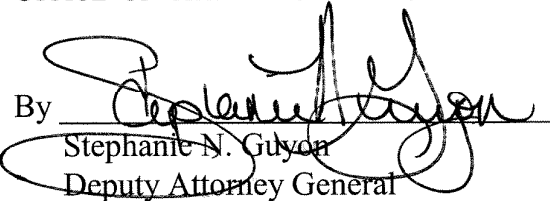
DATED this 2nd day of January, 2004.


Douglas K. Merkley
Attorney for Respondent

I concur in this stipulation and order.

DATED this 5TH day of April, 2004.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By 
Stephanie N. Guyon
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-3204, the foregoing is adopted as the decision of the Board of Social Work Examiners in this matter and shall be effective on the 5th day of April, 2004. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF SOCIAL WORK EXAMINERS

By 
Robert Payne, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of April, 2004, I caused to be served a true and correct copy of the foregoing by the following method to:

Marylin L. Eacker
338 Diamond Avenue
Twin Falls, ID 83301

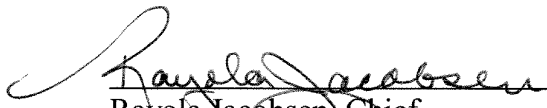
- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Douglas K. Merkley
Attorney at Law
P.O. Box 4389
Pocatello, ID 83205-4389

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Stephanie N. Guyon
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Rayola Jacobsen, Chief
Bureau of Occupational Licenses